IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

RHODE ISLAND ASSOCIATION OF THE DEAF, KATHRYN ARCANA, and PEGGY MERHI,
Plaintiffs,

v.

LIFESPAN CORPORATION
167 Point Street
Providence, RI 02903
SERVE ON:
Paul J. Adler
Lifespan Corporation
167 Point Street
Providence, RI 02903

LIFESPAN PHYSICIAN GROUP, INC.
167 Point Street
Providence, RI 02903
SERVE ON:
Kenneth E. Arnold
Lifespan Corporation
167 Point Street
Providence, RI 02903

RHODE ISLAND HOSPITAL
593 Eddy Street
Providence, RI 02903
SERVE ON:
Paul J. Adler
167 Point Street
Providence, RI 02903

Defendants.

Case No:

COMPLAINT AND JURY DEMAND

Plaintiffs Rhode Island Association of the Deaf ("RIAD"), Kathryn Arcana, and Peggy Merhi, by and through their undersigned counsel, sue Defendants Lifespan Corporation, Lifespan Physician Group, Inc. (collectively or individual "Lifespan") and Rhode Island Hospital (collectively "Defendants"), and state:

PRELIMINARY STATEMENT

1. This is an action brought by the Plaintiffs, one grassroots deaf advocacy organization and two deaf individuals, seeking declaratory and injunctive relief, attorney's fees, litigation expenses and other equitable relief as well as compensatory damages to remedy the unlawful discrimination the Plaintiffs have suffered on account of their disability in violation of Title III of the Americans with Disabilities Act, 42 U.S.C. §12181, et seq. ("ADA"), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, et seq. ("Rehabilitation Act"), and Section 1557 of the Patient Protection and Affordable Care Act ("Affordable Care Act").

2. Plaintiffs Rhode Island Association of the Deaf ("RIAD), Kathryn Arcana, and Peggy Merhi bring this action against Defendants for intentionally discriminating against them on the basis of disability by failing to provide effective communication in the course of delivering medical care and services.

3. On several occasions between 2014 and the present, Ms. Arcana brought her young son to Hasbro Children's Hospital ("Hasbro"), the pediatric division of Rhode Island Hospital, due to complications related to sickle cell disease and thalamessia. On each occasion, Defendants failed to ensure effective communication between Ms. Arcana and its personnel. Consequently, Ms. Arcana did not have adequate information about her son's medical condition as he underwent blood transfusions, the administration of intravenous medication, and organ removal.

4. In 2014, Mrs. Merhi visited Hasbro Children's Hospital as a companion to her son, K.M. Hasbro Children's Hospital failed to provide a qualified sign language interpreter to ensure effective communication, leaving Mrs. Merhi with limited information about her son's injury.

5. In 2015, 2016, and 2017, Mr. Merhi had several hospitalizations at Rhode Island Hospital due to complications related to lymphoma. Mrs. Merhi accompanied him on each of these visits. Rhode Island Hospital failed to ensure effective communication with Mr. and Mrs. Merhi at each of these visits.

6. Also during this time, Mrs. Merhi visited Rhode Island Hospital on several occasions to accompany her son, K.M. Although Rhode Island Hospital provided interpreter services for visits scheduled in advance, Rhode Island Hospital failed to provide interpreter services on several occasions when K.M. visited the Emergency Department. On one such visit, the discussion centered around whether to place K.M. in a psychiatric facility. Due to the lack of qualified sign language interpreter services, Mrs. Merhi could not fully participate in this conversations.

7. Rhode Island Association of the Deaf is a grassroots deaf advocacy organization. Its members are deaf and hard of hearing individuals in Rhode Island, many of whom require qualified sign language interpreters for effective communication in healthcare settings, including at Lifespan hospitals.

8. Defendants intentionally violated Title III of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12181-189, and section 504 of the Rehabilitation Act, 29 U.S.C. § 794 and Section 1557 of the Patient Protection and Affordable Care Act ("Affordable Care Act").Plaintiffs seek declaratory relief, injunctive relief, compensatory damages, and attorneys' fees and costs.

JURISDICTION AND VENUE

9. This Court has jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1343.

10. Venue is proper in the District of Rhode Island pursuant to 28 U.S.C. § 1391 because: (i) Defendants operate a place of business within the District and have sufficient contacts with this District to subject them to personal jurisdiction at the time this action is commenced; and (ii) the acts and omissions giving rise to this claim have occurred within the District.

THE PARTIES

11. Plaintiff Kathryn Arcana is deaf. She resides at 40 George Street, Warwick, RI 02888.

12. Plaintiff Peggy Merhi is deaf. She resides at 18 Campbell Terrace, Pawtucket, RI 02860. Prior to his death, Semi Merhi resided with his wife Peggy Merhi.

13. Plaintiff Rhode Island Association of the Deaf (RIAD) is a grassroots deaf advocacy organization in Rhode Island. RIAD's members are deaf and hard of hearing individuals who live in Rhode Island and use sign language as their primary means of communication. RIAD's mission is to advocate and facilitate changes in the quality of life for the Rhode Island Deaf Community, by working to improve awareness, conditions, and opportunities for its members in all aspects of life.

14. Lifespan is "a comprehensive health system providing accessible, high-value services to the people of Rhode Island and southeastern New England." Its partners include Defendant Rhode Island Hospital. *See* https://www.rhodeislandhospital.org/about-rhode-island-hospital (last visited July 6, 2017).

15. Defendant Lifespan Corporation a healthcare system whose purpose is "to provide high quality health services through its subsidiaries and affiliates." It was founded in1994 by Rhode Island Hospital and Miriam Hospital.

16. Lifespan Corporation's principal office is located at 167 Point Street, Suite 2B, Providence, RI 02903.

17. Defendant Lifespan Physician Group is a comprehensive, integrated, academic health system, whose purpose is research, education, and direct patient care.

18. Defendant Lifespan Physician Group is affiliated with Rhode Island Hospital's pediatric division, Hasbro Children's Hospital.

19. Lifespan Physician Group's principal office is located at 167 Point Street, Providence, RI 02903.

20. Defendant Rhode Island Hospital is a hospital located at 593 Eddy Street, Providence, RI 02903.

21. Hasbro Children's Hospital is the pediatric division of Defendant Rhode Island Hospital.

22. All Defendants share a Registered Agent, Kenneth E. Arnold. The same individual, Lawrence Aubin, Sr., serves as the Director of the Lifespan Corporation and Rhode Island Hospital. The same individual, Timothy J. Babineau, serves as the President of Lifespan Corporation and Lifespan Physician Group.

23. The 2015 Annual Report describes "Rhode Island Hospital and its Hasbro Children's Hospital" as one of the hospitals forming "Lifespan's academic medical center." *See* https://www.lifespan.org/sites/default/files/lifespan-files/documents/lifespan-main/Lifespan-Annual-Report-2015.pdf (last visited July 6, 2017).

24. On information and belief, all Defendants are recipients of federal financial assistance, including Medicare and Medicaid reimbursements.

FACTUAL ALLEGATIONS

THE HOSPITALS

25. Hasbro Children's Hospital and Rhode Island Hospital are partners in the Lifespan network. The website for each hospital bears the Lifespan logo and contains many links to Lifespan's website, www.lifespan.org, including a link to a statement by Lifespan's President.

26. On information and belief, Lifespan sets policies for Hasbro Children's Hospital and Rhode Island Hospital including policies for providing auxiliary aids and services for patients who are deaf and hard of hearing and policies for patient care and safety.

27. On information and belief, Lifespan exerts sufficient control over the individuals who work at Rhode Island Hospital and Hasbro Children's Hospital to be held liable for their acts and omissions.

28. At the time the events in this Complaint arose, Lifespan's website described its approach to patient care as "a partnership between patient, physician and care team, who work together toward the common goal of your optimal wellness." *See* Lifespan, Delivering Health with Care: Patient-Centered Care, available at http://www.lifespan.org/delivering-health-with-care/patient-centered-care.html (visited Nov. 20, 2015).

29. Lifespan considers doctor-patient communication essential to patient safety. In a section of its website devoted to Patient Safety, Lifespan describes the importance of communication both from doctors and from patients.

30. Lifespan's website lists "Patient Rights and Responsibilities." See Lifespan, "Patient Rights and Responsibilities," available at https://www.lifespan.org/patients-visitors/ethics-and-patient-rights/patient-rights-and-responsibilities (last visited July 6, 2017). This list includes the right to "Effective communication with your physician, including services of a qualified medical

interpreter or translation services, at no cost to you; Participate in your care plan and make informed decisions, including the right to refuse care as permitted by law;" and "Respect for your cultural, personal, and religious values, beliefs and preferences." *Id.* The list includes the responsibility to "[p]rovide the hospital or your physician with information about past illnesses, hospitalizations, medications, allergies, and other matters relating to your health care." *Id.*

31. Lifespan's website entry on "Safety for Patients and Visitors" provides patients with a list of "Questions to Ask." *See* Lifespan, "Safety for Patients and Visitors," available at https://www.lifespan.org/patients-visitors/safety-patients-and-visitors (last visited July 6, 2017).

32. Another page on Lifespan's website, entitled "How your doctor can help you," advises that doctors are responsible for explaining a list of information "in terms you can understand," including "your medical condition; the diagnostic tests and treatment he or she feels are necessary; the risks and benefits of the treatment he or she recommends; any alternative to those procedures; the risks of refusing treatment." *See* Lifespan, "How your doctor can help you," available at https://www.lifespan.org/patients-visitors/ethics-and-patient-rights/what-your-doctor-can-and-cant-do (last visited July 6, 2017). The page advises patients: "[i]f you have any questions, speak with your doctor, or call the hospital ethics committee, social work department, patient representatives department or clergy. Any of these representatives will be very willing to assist you." *Id.*

33. Lifespan's website for Hasbro Children's Hospital also emphasizes family participation. It has a section of its website entitled "Patient & Family Centered Care," in which Hasbro promises that "We will partner with you to ensure that your child receives excellent care, and that you and the rest of your family are comfortable, informed and included in all facets of your child's experience." *See* Hasbro Children's Hospital, "Patient & Family Centered Care,"

available at https://www.hasbrochildrenshospital.org/patient-family-centered-care (last visited July 6, 2017).

34. In its webpage on "Patient Safety Tips," Hasbro states that "[t]he family is the most important part of the patient's care giving team. We ask parents to be an active member of the team by reading these tips and getting involved with their child's care." Hasbro Children's Hospital, "Patient Safety Tips," available at https://www.hasbrochildrenshospital.org/patient-safety-tips (Feb. 6, 2017). The first "tip" is to "[a]dvocate for your child by asking questions about their plan of care. If you don't understand something, speak up! We want you to learn about your child's condition and how we are treating it." *Id.*

PLAINTIFF KATHRYN ARCANA

35. Plaintiff Kathryn Arcana is deaf and primarily communicates through American Sign Language ("sign language").

36. Ms. Arcana's son, Luke C., has sickle cell disease and thalamessia, both chronic health conditions that require ongoing monitoring and recurring hospitalizations.

37. Ms. Arcana's son is hearing and communicates with his mother in sign language.

38. Ms. Arcana's husband and parents have passed away; she has no other living relatives to assist her in caring for Luke C.

Fall 2014 Visit to Hasbro

39. On or about September 12, 2014, Ms. Arcana brought Luke C. to Hasbro because he complained of severe pain and she noticed that his abdomen was distended. Luke C. was admitted for a transfusion and pain control.

40. Ms. Arcana requested that Defendants provide sign language interpreters.

41. Defendants provided interpreters, but only for a brief amount of time. The remainder of her time at Hasbro, Defendants did not provide on site interpreter services.

42. On several occasions, doctors and nurses attempted to speak to Ms. Arcana through surgical masks. When Ms. Arcana advised them that she is deaf and needs for them to write, they would give a look of exasperation.

43. On other occasions, communication simply was not successful. For example, one of Defendants' nurses repeatedly asked Ms. Arcana to administer intravenous medication to her son. Ms. Arcana refused because she did not understand why the nurse was asking her to administer the medication. Only later, when an interpreter was present and Ms. Arcana complained to other medical staff, did she learn that the nurse believed that Luke was refusing to cooperate with her and believed he would respond better to his mother.

44. On most occasions, Ms. Arcana was forced to communicate about her son's life-threatening condition through hand-writing notes back and forth with Defendants' personnel.

45. The process of hand-writing notes limited the information that Ms. Arcana could convey and had access to.

46. On information and belief, Defendants' personnel shared less information with Ms. Arcana through writing notes than they share with patients who are not deaf due to the extra demands of hand-writing all of the information they wished to convey to her.

47. Ms. Arcana shared less information through writing notes than she would have using a sign language interpreter, due to the cognitive demands of translating her requests for medical information from sign language to English in her emotional state, and due to the physical demands of hand-writing everything she intended to say.

48. Ms. Arcana wanted to receive as much information as possible about her three-year-old son's treatment and prognosis.

49. During this hospitalization Ms. Arcana was unable access as much information as she would have if she were not deaf due to the absence of interpreter services.

50. Ms. Arcana did not have a full understanding of the tests Defendants' personnel performed on her son, the medications they administered, or the treatment they recommended going forward.

51. Ms. Arcana wanted to ask numerous questions about her three-year-old son's treatment and prognosis. Ms. Arcana was unable to ask all her questions because of the lack of interpreter services.

52. On information and belief, doctors and nurses who attempted to communicate with Ms. Arcana knew of the communication difficulties and knew they were providing less information to Ms. Arcana that they typically provided to other similarly situated individuals, and receiving less information from Ms. Arcana than they typically received from other similarly situated individuals.

February 16-18, 2015 Visit to Hasbro

53. On or around February 16, 2015, Ms. Arcana brought Luke C. to the ER at Hasbro because he was experiencing abdominal pain and running a fever.

54. Upon arriving, Ms. Arcana requested a qualified sign language interpreter.

55. Defendants did not provide a qualified sign language interpreter.

56. Luke C. was diagnosed with having an enlarged spleen and admitted to Hasbro.

57. Over the next few days, Defendants' personnel performed numerous assessments on Luke and administered medications, including intravenous medication.

58. Ms. Arcana attempted to communicate with Defendants' personnel, but did not have a meaningful opportunity to due so due to the absence of qualified sign language interpreters.

59. For example, nurses frequently would enter the room to administer medication to Luke. Ms. Arcana would explain she is deaf and attempt to ask what medications the nurses were administering and why. The nurses would show Ms. Arcana the name of the medication and speak, but most nurses made no attempt to write down the purpose of the medication so Ms. Arcana could have that information. Consequently, Ms. Arcana did not understand the purpose of the medications they gave to her son.

60. On information and belief, Defendants' personnel were aware that communication with Ms. Arcana was less effective than communication with others.

61. For example, on at least one occasion, Defendants' personnel asked Ms. Arcana to call her own interpreter.

62. On another occasion, Defendants' personnel brought in VRI equipment to provide a remote interpreter. However, the personnel did not know how to set up the equipment. Consequently, they could not use the equipment to access an interpreter.

63. Ms. Arcana observed the doctors and nurses appearing to have lengthy, amicable conversations with the parents of other children at Hasbro. She did not have such access to the doctors and nurses at Hasbro due to the lack of interpreter services.

64. On information and belief, Defendants' personnel shared less information with Ms. Arcana through writing notes than they share with patients who are not deaf due to the extra demands of hand-writing all of the information they wished to convey to her.

65. Ms. Arcana shared less information through writing notes than she would have using a sign language interpreter, due to the cognitive demands of translating her requests for medical

information from sign language to English in her emotional state, and due to the physical demands of hand-writing everything she intended to say.

66. Ms. Arcana wanted to receive as much information as possible about her young son's treatment and prognosis.

67. During this hospitalization Ms. Arcana was unable access as much information as she would have if she were not deaf due to the absence of interpreter services.

68. Ms. Arcana did not have a full understanding of the tests Defendants' personnel performed on her son, the medications they administered, or the treatment they recommended going forward.

69. Ms. Arcana wanted to ask numerous questions about her young son's treatment and prognosis. Ms. Arcana was unable to ask all her questions because of the lack of interpreter services.

70. On information and belief, doctors and nurses who attempted to communicate with Ms. Arcana knew of the communication difficulties and knew they were providing less information to Ms. Arcana that they typically provided to other similarly situated individuals, and receiving less information from Ms. Arcana than they typically received from other similarly situated individuals.

February 21-22, 2015 Visit to Hasbro

71. On or around February 21, 2015, Ms. Arcana brought Luke C. to the ER at Hasbro due to excessive vomiting and diarrhea, believed to be influenza.

72. Ms. Arcana and Luke C. arrived at Hasbro in the morning and immediately requested a sign language interpreter.

73. No sign language interpreter was provided.

74. Instead, Defendants attempted to communicate with Ms. Arcana through speaking and writing notes.

75. During the first several hours that Ms. Arcana and Luke were at Hasbro, Defendants' personnel did not effectively communicate with Ms. Arcana regarding Luke's medical history.

76. Because of Luke's diagnoses, his medical history is lengthy and complex. Ms. Arcana is knowledgeable of his history and considers it important to share his medical history in as much detail as possible each time they go to the emergency room.

77. Ms. Arcana was not able to share Luke's complete medical history without a sign language interpreter present because of the difficulty of hand-writing such lengthy, complex information while simultaneously caring for a seriously ill child.

78. Due to the lack of effective communication, Ms. Arcana did not know whether she had adequately conveyed Luke's medical history. For example, Ms. Arcana believed Defendant's personnel did not know that Luke had sickle cell disease.

79. At one point, the doctors attempted to send Luke and Ms. Arcana home. Ms. Arcana believed they were attempting to send Luke home because they did not know he had sickle cell disease.

80. Ms. Arcana repeatedly wrote out that Luke has sickle cell disease, in the hopes that the doctors and nurses would understand and keep him at the hospital.

81. Luke was later admitted for hydration. Ms. Arcana believed that Luke was admitted to the hospital overnight for treatment specific to sickle cell patients with possible influenza and that he was admitted only because she notified the hospital of Luke's sickle cell. Hospital records show that as of 7:00 p.m. hospital staff knew that Luke had sickle cell disease but thought his

symptoms were related to gastroenteritis. Ms. Arcana did not understand the reason for Luke's admission because the hospital did not communicate effectively with her.

82. The next day, Defendants provided an interpreter for a brief period of time. However, Defendants failed to schedule the interpreter to come during any time frame that was important for Luke's care, defeating the purpose of providing an interpreter and leaving Ms. Arcana without effective communication.

83. Due to Defendants' failure to appropriately schedule the interpreter, the interpreter left before the doctor came to discuss the son's condition with Ms. Arcana.

84. The doctor attempted to communicate with Ms. Arcana through writing. Communication was ineffective because Ms. Arcana did not understand much of what the doctor wrote. Therefore, Ms. Arcana still lacked critical information about why her son had been admitted to the hospital and what tests and treatments he might have undergone.

85. On information and belief, the doctor was aware of the absence of an effective means of communication, because the doctor provided less information than would have been provided to another similarly situated individual. For example, when Ms. Arcana asked probing questions about whether Luke should continue certain medications or otherwise make changes to his routine, the doctor simply wrote "yes," or "no" without further explanation.

86. At one point, Defendants' personnel attempted to use Video Remote Interpreter ("VRI") equipment in order to communicate with Ms. Arcana.

87. VRI equipment uses computer technology, a microphone, and a camera to provide remote access to an interpreter via the internet. Although the doctors, nurses, patient, and companion are all in the same room, the interpreter is not physically present. Rather, the interpreter participates via a remote connection similar to Skype or Facetime.

88. VRI did not provide effective communication. The VRI equipment did not function properly: the screen repeatedly froze, leaving Ms. Arcana unable to see what the interpreter was signing to her; and the microphone was inadequate, leaving the interpreter unable to hear much of what the doctors and nurses were saying and therefore unable to convey this information to Ms. Arcana. The malfunctioning of the VRI equipment was evident to the doctors and nurses attempting to use it.

89. After the VRI equipment failed, Ms. Arcana repeated her request for an interpreter to come on site.

90. Defendants' personnel did not provide an interpreter on site. Instead, they continued to attempt unsuccessfully to communicate with Ms. Arcana through speaking and writing.

91. During this time that Defendants knowingly failed to provide a qualified sign language interpreter, they administered medications and conducted assessments on Ms. Arcana's four-year-old son without ensuring that Ms. Arcana fully understood what they were doing or why.

92. At other times, Defendants' personnel administered intravenous medications to Ms. Arcana's son. Although Defendants' personnel did show Ms. Arcana the label of the medication before administering it, they did not explain to her the purpose of the medication or what she could expect her son to undergo.

93. Due to the lack of effective communication, Ms. Arcana was unable to perform important maternal duties, such as helping her son understand what to expect in this confusing environment or relaying any questions or concerns that he had. She had as little information as he did about what was going on and even less of an ability to communicate with those around her.

94. Defendants discharged Luke on February 23, 2015. At the time of discharge, Ms. Arcana still did not know why her son had been admitted to the hospital, what treatments he had undergone, or how to best care for him thereafter.

95. Ms. Arcana wanted to receive as much information as possible about her four-year-old son's treatment and prognosis.

96. Ms. Arcana was unable access as much information as she would have if she were not deaf due to the absence of interpreter services.

97. Ms. Arcana did not have a full understanding of the tests Defendants performed on her son, the medications they administered, or the treatment the recommended going forward.

98. Ms. Arcana wanted to ask numerous questions about her four-year-old son's treatment and prognosis.

99. Ms. Arcana was unable to ask all her questions because of the lack of interpreter services.

100. This incident caused Ms. Arcana to feel humiliation, anxiety, stress, frustration, and helplessness.

March 2015 Visit to Hasbro Children's Hospital

101. On March 19, 2015, Ms. Arcana brought her son to Hasbro for previously scheduled surgery to remove his spleen.

102. One month prior to the surgery, Ms. Arcana had requested an interpreter and received assurances that one would be provided.

103. Prior to the surgery, Ms. Arcana was very anxious. She had lost several close relatives recently, including her husband, and worried that her son would not survive the surgery.

This anxiety was increased by the concern that yet again Defendants would not provide an interpreter, despite having repeatedly reassured her one would be there.

104. When Ms. Arcana arrived at Hasbro with her son, there was no interpreter.

105. Ms. Arcana was so distressed by the lack of communication prior to her son's surgery that she became physically ill.

106. Ms. Arcana felt pressured to go forward with the surgery. Defendants' personnel went ahead with the surgery despite the lack of effective communication between them and Ms. Arcana.

107. Defendants' personnel apparently believed they could speak to Ms. Arcana and that she would read their lips. This belief was unfounded, however, because the personnel were all wearing surgical masks that covered their mouths, rendering lipreading obviously impossible.

108. Defendants provided a VRI machine briefly. The VRI machine did not provide effective communication, however, because Ms. Arcana was too distressed to focus on the tiny screen. The VRI machine also did not provide effective communication because the interpreter could not hear the doctors and nurses well enough to convey what they were saying.

109. Prior to the surgery, Ms. Arcana wanted to learn everything she could about her four-year-old son's surgery and about the team of medical professionals who would be in the operating room.

110. Ms. Arcana had almost no opportunity to learn about the surgery or meet the surgical team because of the failure of Defendants to provide a qualified sign language interpreter.

111. Prior to the surgery, Ms. Arcana had numerous questions.

112. Ms. Arcana was unable to ask her questions due to the absence of qualified sign language interpreter.

113. After the surgery, Ms. Arcana went to see her son.

114. Immediately, she saw that Luke was not well – he was covered in sweat, had red discoloration around his mouth, was uncomfortable and seemed to be running a fever.

115. Ms. Arcana attempted to alert the nurses to her four-year-old son's condition and ask questions about what was happening.

116. The nurse attempted to assure her that Luke was fine but was not able to impart much information due to the communication barrier created by the absence of an interpreter. Therefore, Ms. Arcana could only tell that the nurse was trying to reassure her, but had no access to information that would provide such reassurance.

117. When Luke awoke, he was in severe pain. He began crying and attempted to remove his breathing tube.

118. Ms. Arcana attempted to communicate with the nurse about her son's pain and distress. Ms. Arcana wanted to have a conversation with the nurse about what was going on. Ms. Arcana was unable to have a conversation with the nurse; she was only able to gesture to the nurse that her son was in pain.

119. The nurse administered morphine to Ms. Arcana's four-year-old son without explaining to Ms. Arcana why she was administering such heavy medication to such a young child. Ms. Arcana had serious concerns about her four-year-old son's treatment and recovery.

120. Ms. Arcana could not communicate her concerns to the nurses or ask them questions, such as whether morphine is safe to use on children.

121. Ms. Arcana had numerous questions about her four-year-old son's treatment and recovery.

122. Ms. Arcana could not ask all her questions.

123. Although Ms. Arcana had a friend accompanying her at this time, the friend was also deaf and could not help her communicate with Defendants' personnel.

124. The experiences at Hasbro have left Ms. Arcana deeply traumatized.

125. Ms. Arcana attended weekly counseling sessions for several months due to the distress of being unable to communicate about her four-year-old son's life-threatening hospitalizations and subsequent organ removal.

126. Due to the distress of being refused effective communication at Hasbro, Ms. Arcana has experienced sleep disturbances and weight loss.

127. Due to the distress of being refused effective communication at Hasbro, Ms. Arcana currently takes medication to stabilize her mood.

128. Ms. Arcana expects to return to Hasbro in the future because of her son's ongoing health concerns, Hasbro's close proximity to her home, and its specialization in pediatrics. Therefore, it is likely that Ms. Arcana will continue to experience discrimination from Defendants.

PLAINTIFF PEGGY MERHI

129. Plaintiff Peggy Merhi is deaf and communicates primarily through ASL. Mrs. Merhi does not read lips and has a limited ability to communicate in written English.

130. Mr. Semi Merhi was Mrs. Merhi's husband. During his life, Mr. Merhi was deaf and communicated primarily through ASL. Mr. Merhi did not read lips and had a limited ability to communicate in written English.

131. Additionally, Mr. Merhi had a hand abnormality that affected how he produced signs. An interpreter not familiar with his signing style, especially one at a disadvantage due to trying

to understand him over video instead of in person, may have had difficulty understanding what he signed.

132. Additionally, Mr. Merhi had lymphoma, a kind of cancer. He had the condition for several years. Because Mr. Merhi had lymphoma, any discussion of his medical needs was lengthier and more complicated than it would be for a patient without lymphoma.

133. Semi Merhi passed away in May 2017, due to lymphoma.

134. Mr. and Mrs. Merhi have four children, none of whom are deaf.

135. Son K.M., has and emotional disturbance that requires periodic visits to Hasbro Children's Hospital and/or to Rhode Island Hospital. Mr. and Mrs. Merhi also went to Rhode Island Hospital on several occasions for treatment for Mr. Merhi's lymphoma and associated complications.

136. During many occasions, the Hospitals refused to provide on-site qualified sign language interpreters, instead opting to provide the services of a remotely located interpreter thru VRI.

137. On most occasions, the VRI did not provide timely communication. Personnel at the hospitals often did not know how to set up the machine and would have to read an instruction manual to figure out what to do. Once they had logged into the system, the service itself took a long time to connect to an interpreter. The hospitals often did not initiate this process until the doctor had arrived, wasting a large portion of the doctor's time simply accessing the remote interpreter. An on-site interpreter would have been ready at the time the doctor arrived.

138. At these hospitals, once the VRI was set up, the VRI failed to provide effective communication. The image often froze, requiring either the interpreter or the Merhis to repeat themselves once the image cleared. This happened on multiple occasions during any single

interaction, greatly prolonging the time it took to have the discussion, and causing information to be lost. At other times, the interpreter could not see the Merhis, seeing a black screen instead and preventing any possible communication. And at other times, the interpreter was not qualified, and did not accurately or effectively convey information between the Merhi's and Hospital personnel.

139. On other occasions, hospital personnel required the Merhis to communicate via handwriting notes back and forth, severely limited the Merhis' ability to participate in the conversation. The Merhis have a limited command of written English, so they were unable to understand many things that doctors and nurses wrote and were not able to make themselves fully understood. Further, the laborious task of hand-writing everything they intended to say caused doctors, nurses, and the Merhis alike to omit or truncate important information.

140. The difficulty communicating and the impact it had on the Merhis is reflected in the medical records. The Merhis repeatedly advocated for their needs and attempted to explain the limitations of handwriting and VRI, and to request on-site interpreters. Defendants' personnel rarely heeded these requests.

141. The lack of effective communication caused Mr. and Mrs. Merhi humiliation, stress, frustration, anxiety, and emotional distress, exacerbating the already significant stress they were under due to Mr. Merhi's chronic illness.

K.M.'s September 7, 2014 Visit to Hasbro Children's Hospital

142. On or about September 7, 2014, K.M. went to Hasbro Children's Hospital due to an injury to his shoulder. Mrs. Merhi, his mother, accompanied him on this visit.

143. Mrs. Merhi requested an interpreter, and hospital records noted she was hearing impaired.

144. Instead of providing an interpreter for Mrs. Merhi, Defendants communicated solely with K.M., requiring him to relay all information to his mother even though she was with him in the room.

145. Due to the lack of interpreting services, Mrs. Merhi did not receive full information about her son's injury.

146. The lack of effective communication caused Mrs. Merhi humiliation, stress, frustration, anxiety, and emotional distress.

147. Mrs. Merhi had taken K.M. to Hasbro Children's Hospital on multiple previous occasions. On many such occasions, Defendants did not provide qualified sign language interpreters, denying Mrs. Merhi the opportunity to fully participate in her son's care.

K.M.'s July 7, 2015 Visit to Rhode Island Hospital

148. On or about July 7, 2015, K.M. went to Rhode Island Hospital due to aggressive behavior, homicidal ideas, suicidal thoughts and suicidal threats. Mrs. Merhi accompanied him on this visit.

149. Hospital records indicated "Communication Factors: language barrier to treatment, interpreter or communication devices required and mother needed deaf interpreter." Records from this visit also indicate that "[b]oth parents are deaf and only sign" and that "sign language" is the "preferred language."

150. Despite these notations, the Hospital did not provide a qualified sign language interpreter.

151. Discussions with Hospital personnel included a psychiatric consultation to determine if K.M. required an inpatient psychiatric hospitalization.

152. Conversations during that visit included other sensitive topics, such as K.M.'s history of aggression toward other family members, and his previous psychiatric hospitalization.

153. Mrs. Merhi could not participate in these conversations due to the absence of a qualified sign language interpreter.

154. The lack of effective communication caused Mrs. Merhi humiliation, stress, frustration, anxiety, and emotional distress.

Mr. Merhi's October 2-5, 2015 Hospitalization at Rhode Island Hospital

155. On or about October 2, 2015, Mr. Merhi went to Rhode Island Hospital due severe pain associated with his cancer. Mrs. Merhi accompanied him on this visit.

156. Upon arriving at Rhode Island Hospital, Mrs. Merhi requested a qualified sign language interpreter.

157. Rhode Island Hospital initially failed to provide a qualified sign language interpreter onsite and instead attempted to provide an interpreter through VRI equipment.

158. The VRI equipment did not ensure effective communication. The VRI equipment repeatedly disconnected, making it impossible to use the interpreter for communication. In addition, the VRI equipment often froze, forcing either the interpreter or the Merhi's to repeat themselves once the image was clear. Freezing would occur multiple times during a single interaction, severely impairing the communication that could take place.

159. Mr. and Mrs. Merhi attempted to explain to Rhode Island Hospital that the VRI equipment did not work and requested an interpreter to come on site.

160. At some point that evening, Rhode Island Hospital provided an on-site interpreter for a short time. However, once the interpreter left, Hospital personnel forced Mr. Merhi to communicate via handwriting notes, despite the fact he had IVs in both hands.

161. The Hospital admitted Mr. Merhi and he stayed from Friday October 2nd until Monday October 5th.

162. On Saturday and Sunday, October 3rd and 4th, Rhode Island Hospital refused to provide on-site interpreting services for Mr. Merhi because it was the weekend.

163. Because there was no interpreter, Mr. Merhi could not summon a nurse to his bedside. He pushed the call button. However, on information and belief, the nurse responded by speaking through an intercom, which Mr. Merhi did not hear because he is deaf.

164. Mr. Merhi had to push the call button several times before the nurse came to his room. When she finally came, she seemed to admonish him for not responding to the intercom, despite the fact that he is deaf.

165. Mr. Merhi attempted to explain to the nurse that he needed pain medication. She did not administer medication. Mr. Merhi waited for several hours in severe pain. Again, he paged the nurse, who again did not provide him with pain relief.

166. Additionally, Mr. Merhi had questions for the doctor about his condition. He could not ask the questions because there was no interpreter available.

167. Medical records from this hospitalization indicate that Mr. Merhi was treated for gastritis. Additionally, tests revealed the presence of gallstones but without inflammation of the gall bladder. Mr. Merhi underwent procedures requiring his informed consent. However, the Hospital did not provide an interpreter to obtain Mr. Merhi’s informed consent.

168. Mr. Merhi and Mrs. Merhi did not fully understand the reason for his admission or that he had gastritis and gallstones. Although hospital personnel may have written the words, he and Mrs. Merhi did not understand and they could not ask questions about what the words meant. Consequently, they could not understand the proper treatment plan and Mr. Merhi continued to have medical problems after his release.

169. Mr. Merhi's medical needs are further complicated by the fact that he had cancer. Medical findings included, for example, a newly enlarged lymph node—a significant finding for a patient with lymphoma. However, the Rhode Island Hospital failed to provide an interpreter to discuss these findings with Mr. and Mrs. Merhi, preventing them from meaningfully participating in this discussion or fully understanding what had happened.

170. On information and belief, Rhode Island Hospital prolonged Mr. Merhi's hospital stay, keeping him at the Hospital and away from his family, until Monday October 5th due to its refusal to provide interpreter services on the weekend. The Hospital required him to stay until Monday so that he could use an on-site interpreter for discharge.

171. The Hospital provided an interpreter briefly on October 5th for discharge. However, this brief period on Monday was not enough for Mr. Merhi to remember the questions he had had over the weekend, get answers and understand his complex medical condition.

172. The lack of effective communication caused Mr. and Mrs. Merhi humiliation, stress, frustration, anxiety, and emotional distress.

Mr. Merhi's November 10-14, 2015 Hospitalization at Rhode Island Hospital

173. On or about November 10, 2015, Mr. Merhi returned to Rhode Island Hospital due to continued abdominal pain. Mrs. Merhi accompanied him on this visit.

174. The Hospital admitted Mr. Merhi and kept him until November 14th. The Merhis requested interpreting services at the outset and repeatedly during his stay. Despite these repeated requests, the Hospital provided on-site interpreters briefly on only two occasions, November 10th and November 12th. The two brief occasions of providing interpreter services did not satisfy the Merhis' communication needs. In particular, on November 12th, Mr. Merhi requested to meet with the doctor while the interpreter was present so he could ask questions

about his condition. The doctor failed to appear during the brief time the interpreter was there, and Mr. Merhi was not able to have that conversation.

175. Medical records indicate that Mr. and Mrs. Merhi did not learn about Mr. Merhi's gallstones diagnosis during the previous visit due to the lack of an interpreter and confusion that occurred due to attempts at communication with writing.

176. During this visit, Hospital personnel engaged in multiple discussions with the Merhis about Mr. Merhi's complex plan of care without providing an interpreter. The Hospital also attempted to provide consultation with a social worker without providing an interpreter. A social work assessment from this period notes the need to "facilitate improved communication."

177. The Hospital did not to provide the Merhis with "extensive education" regarding Mr. Merhi's medical condition. Because the Hospital did not provide adequate interpreting services, this "education" simply involved handing the Merhis lengthy pamphlets they could not read.

178. The Hospital failed to provide interpreting services in part because its VRI system was not working at all. Instead of calling for an interpreter to come on site, the Hospital provided no interpreting services at all. Because the Hospital refused to provide adequate interpreter services, Mr. and Mrs. Merhi were forced to participate in complex conversations via handwriting notes. On occasion, Mr. and Mrs. Merhi felt pressed to access an interpreter through their cell phones, tapping into the federally funded Video Relay Service.

179. The Video Relay Service is a Telecommunications Relay Service provided free of charge by the federal government. It is designed to give deaf and hard of hearing individuals access to telephone services, not to provide interpreters for hospitals. Indeed, using the Video Relay Service for a conversation where all parties are in the same room is considered improper

use of the service and exposes the Merhis to consequences such being barred from using the service or even criminal penalties.

180. Due to Rhode Island Hospital's failure to provide sign language interpreters, Mr. and Mrs. Merhi did not understand everything Hospital personnel told them, had a very limited ability to ask questions, and often were unable to fully understand the responses. Therefore, they lacked the ability to meaningfully participate in Mr. Merhi's medical care.

181. The lack of effective communication caused Mr. and Mrs. Merhi humiliation, stress, anxiety, frustration, and emotion distress.

182. Shortly after leaving Rhode Island Hospital, Mr. Merhi developed an extensive rash. He visited his primary care physician, who told him through an interpreter that the rash was caused by receiving incorrect medication at the hospital. On information and belief, the Hospital personnel prescribed incorrect medication to Mr. Merhi due to the lack of effective communication.

Mr. Merhi's November 27, 2015, Visit to Rhode Island Hospital

183. On or around November 27, 2015, Mr. Merhi went to Rhode Island Hospital due to abdominal pain and vomiting. Mrs. Merhi accompanied him on this visit. They requested sign language interpreters upon arrival.

184. The Merhis spent several hours at Rhode Island Hospital with no interpreting services. During this time, the Hospital attempted to take Mr. Merhi's medical history and to obtain his informed consent for procedures. Mr. Merhi did not fully understand these exchanges because of the lack of interpreter services.

185. During this time, Mrs. Merhi texted a professional interpreter she knew who came to the Hospital immediately. As a result, the Merhis received an interpreter at discharge.

186. At some point during this visit, Mr. Merhi sought to complain to Rhode Island Hospital personnel about the poor quality of the communication services.

187. Mr. Merhi attempted to express to a nurse that he wished to complain to a manager. The nurse left the room. When the nurse returned, she did not bring a manager or otherwise provide a means for Mr. Merhi to complain.

Mr. Merhi's December 1-13, 2015, Hospitalization at Rhode Island Hospital

188. On December 1, 2015, Mr. Merhi went to Rhode Island Hospital due to abdominal pain and lack of urinary and bowel function. Mr. Merhi remained at Rhode Island Hospital until December 13th. Mrs. Merhi visited him frequently during this time.

189. Upon arrival, the Merhis requested an interpreter.

190. The Hospital attempted to provide VRI, however Mr. Merhi declined due to his previous experiences with VRI at the Hospital, in which VRI did not enable communication with the healthcare team. The Hospital provided an on-site interpreter. Thereafter, Mr. Merhi underwent emergency surgery.

191. Records show that on or about December 2 a hospital staff person was unable to obtain information from Mr. Merhi due to a communication barrier.

192. On December 2nd, the Hospital attempted extensive communications with the Merhis without an interpreter, including a discussion of possible transplant surgery. The Merhis tried to insist on an on-site interpreter for these kinds of discussions. Mr. Merhi made efforts to explain about the poor quality of VRI and his difficulty understanding written communication. The Hospital granted this request and provided an interpreter from approximately 2:45pm until 7pm.

193. The Merhis were also referred to a social worker to assist with adjusting to his serious illness. The social worker requested an interpreter to communicate with them the next day.

194. On December 3rd, Hospital personnel met with the Merhis to discuss their communication needs during Mr. Merhi's prolonged hospitalization. The Merhis explained about the difficulties of using VRI, including the poor quality of the visual part of the connection (ASL is an exclusively visual language), and the fact the remote interpreter may use a different dialect causing misunderstandings between them. The Merhis also explained their difficulty communicating through written English, and this was not an effective means of communication. Thereafter, the Hospital planned to improve communication with Mr. Merhi. Records show that a plan was developed to schedule ASL interpreters for blocks of time during the day in the morning and afternoon/evening.

195. On or about the evening of December 3, hospital staff again attempted to use VRI.

196. The VRI interpreter was obviously unqualified. The VRI interpreter was smoking a cigarette and had two dogs running in the background.

197. The doctor witnessed the cigarettes and the dogs and chose to turn off the VRI machine. Mr. Merhi found the experience embarrassing and urged the doctor to inform his superiors about the poor quality and inefficacy of the VRI.

198. As a result of this incident, Mr. Merhi requested that live interpreters be present from 8 am to 8 pm.

199. On December 4, medical records indicate that Mr. Merhi expressed appreciation for the staff efforts to communicate, and noted that his stress level had improved considerably as a result.

200. Although the Hospital provided interpreting services 12 hours per day, for a time, the Hospital eventually reduced these hours, citing cost. When the Hospital unilaterally reduced the interpreters' schedule, the Merhis no longer received meaningful access to Mr. Merhi's medical

care, as the doctor was not always available at the same time as the interpreter, causing important discussions to occur when there was no interpreter and the Merhis' participation was quite limited as a result.

201. For example, on more than one occasion, a doctor came in to visit with Mr. Merhi when the interpreter was not present. The doctor tried to write notes to Mr. Merhi, but Mr. Merhi could not understand them. Mr. Merhi requested an on-site interpreter, but the doctor refused due to the time it would take. Consequently, Mr. Merhi was deprived of a meaningful opportunity to communicate with his doctors even during the time that Rhode Island Hospital provided interpreters for a portion of the day.

202. Other incidents arose due to the lack of sufficient interpreting services. On one occasion, as Mr. Merhi was recovering from surgery, the nurses at RIH informed him that he needed to be bathed. Mr. Merhi declined, attempting to state that he wanted to wait until he felt stronger before bathing. What could have been a short discussion became a lengthy and exhausting one due to the miscommunications between the nurses and Mr. and Mrs. Merhi.

K.M.'s December 3, 2015, Visit to Rhode Island Hospital

203. On or around December 3, 2015, K.M. went to Rhode Island Hospital for a sick visit regarding a mysterious lump under his chin. Mrs. Merhi accompanied him on this visit.

204. K.M.'s medical record noted that "[b]oth parents are deaf and only sign."

205. Mrs. Merhi requested a sign language interpreter but the Hospital did not provide one.

206. Therefore, Mrs. Merhi did not have a full opportunity to participate in her son's care.

207. The lack of effective communication caused Mrs. Merhi humiliation, stress, frustration, anxiety, and emotional distress.

K.M.'s December 14, 2015, Visit to Rhode Island Hospital

208. On or about December 14, 2015, K.M. went to Rhode Island Hospital for a well visit, which included following up on the mysterious lump under his chin. Mrs. Merhi accompanied him on this visit.

209. K.M.'s medical record noted that "[b]oth parents are deaf and only sign."

210. Mrs. Merhi requested a sign language interpreter but the Hospital did not provide one.

211. Due to the lack of a sign language interpreter, Mrs. Merhi was limited in her ability to engage in these sensitive discussions with Hospital personnel.

212. The lack of effective communication caused Mrs. Merhi humiliation, stress, frustration, anxiety, and emotional distress.

Mr. Merhi's January 19-23, 2016, Hospitalization at Rhode Island Hospital

213. On January 19, 2016, Mr. Merhi returned to the Hospital due to kidney failure. He was admitted and remained at the Hospital until January 23. Mrs. Merhi accompanied him during this time.

214. Despite the extensive information the Merhis had given just the previous month regarding their communication needs, the Hospital refused to provide on-site interpreting services despite the fact that Mr. Merhi initially required critical care. Instead, the Hospital forced the Merhis to rely on VRI or on handwriting notes.

215. The VRI functioned as poorly during this visit as during previous visits, requiring extended time to set up and often freezing and dropping communication once allegedly connected.

216. Consequently, Mr. Merhi went through a variety of medical assessments and tests , such as imagining procedures and the management of an ostomy bag, without a meaningful opportunity to participate in his own care.

217. Medical records from this visit reflect communication deficiencies. For example, Hospital personnel had to rely on notes from Mr. Merhi's previous visits to obtain his medical history, due to the limitations on what could be obtained by writing.

218. On another occasion, the Hospital yet again forced Mr. Merhi to use VRI instead of an on-site interpreter. Mr. Merhi explained that he could not use the VRI because the interpreter often did not understand him and would ask for him to repeat himself. Due to his serious medical condition, Mr. Merhi was too fatigued to repeat himself.

219. Another note erroneously described Mr. Merhi as having a "severe cognitive impairment/impaired mental status," most likely due to the Hospital's inability to communicate with him.

220. During this time, Mr. Merhi was required to give his lengthy medical history repeatedly and to communicate about sensitive and nuanced matters such as his ostomy output by exchanging handwritten notes.

Complaint To Corporate Office

221. At some point in early 2016, the Merhis attempted to complain to Rhode Island Hospital's interpreting services department.

222. Following an appointment in which Mr. Merhi had received interpreting services, he and Mrs. Merhi asked the interpreter to accompany him to the interpreting services office. They met in person with a woman named Martha, who appeared to be responsible for sign language interpreter services.

223. The Merhis explained to Martha about the difficulties of using the VRI service, including the poor quality and the negative impact on communication. They urged her to provide sign language interpreters on site as a matter of course. Martha refused, citing the cost of providing on-site interpreting services.

K.M.'s February 29, 2016 Visit to Rhode Island Hospital

224. On or around February 29, 2016, K.M. went to Rhode Island Hospital for a follow-up visit regarding the mysterious lump under his chin. Mrs. Merhi accompanied him on this visit.

225. Hospital records indicated that "parents are deaf and only sign."

226. Mrs. Merhi requested a sign language interpreter but Rhode Island Hospital did not provide one.

227. Discussions during the visit included a "confidential" conversation with K.M. regarding whether he has been hurt or has been hurting himself, and a suggestion to Mrs. Merhi that she "call Gateway health services and request urgent home-based therapies."

228. Due to the lack of a sign language interpreter, Mrs. Merhi was limited in her ability to engage in these sensitive discussions with Hospital personnel.

229. The lack of effective communication caused Mrs. Merhi humiliation, stress, frustration, anxiety, and emotional distress.

K.M.'s March 21, 2016 Visit to Rhode Island Hospital

230. On or about March 21, 2016, K.M. went to Rhode Island Hospital due to an injury to his thumb. Mrs. Merhi accompanied him on this visit.

231. Records of this visit indicate that the Hospital offered to provide a sign language interpreter but Mrs. Merhi declined.

232. Records also indicate that Mrs. Merhi expressed a preference that her son, the patient, serve as the interpreter, despite federal regulations expressly prohibiting this practice.

233. Records indicated that Mrs. Merhi chose to go home than to wait for a live interpreter or a video interpreter.

Mr. Merhi's May 13-16, 2016, Hospitalization at Rhode Island Hospital

234. On or about May 13, 2016, Mr. Merhi returned to Rhode Island Hospital due to complications from chemotherapy. He remained there until May 16th. Mrs. Merhi accompanied him during this visit.

235. Mr. Merhi arrived at the Hospital Emergency Department in the early afternoon and specifically requested an on-site sign language interpreter due to his past experiences in which VRI failed to provide effective communication.

236. The Hospital did not provide an on-site interpreter, instead requiring Mr. Merhi to use VRI.

237. Records show that Mr. Merhi required critical care to treat dehydration, sepsis and shock.

238. The combined stress of Mr. Merhi's chronic serious health conditions, coupled with the Hospital's refusal to provide an effective means for him to communicate, deeply frustrated Mr. Merhi. He attempted to explain his frustrations to medical personnel and he felt that they would not listen.

239. As the hours ticked by with no on-site interpreter, Mr. Merhi continued to attempt to explain his frustrations to Hospital personnel. However, they were not able to understand him because they had not provided an interpreter. Mr. Merhi's frustrated mounted. At approximately 900 pm. Mr. Merhi attempted to leave the hospital and exited the building., Hospital personnel followed Mr. Merhi outside and pleaded with him not to leave. They tried to explain the seriousness of his condition and the risks of leaving but were unable to do so adequately without an interpreter. However, Mr. Merhi did return to his bed.

240. Soon after, Mr. Merhi became agitated again and again attempted to leave. Defendants still had not provided an on-site interpreter. The video interpreter was unable to

understand what Mr. Merhi was saying. Based on this report and other information, Defendants determined that Mr. Merhi was not able to competently make a decision to leave against medical advice due to his fever and serious condition. Defendants chemically restrained Mr. Merhi and admitted him over his objection.

241. Importantly, because Defendants had not provided an on-site interpreter, Mrs. Merhi watched these events unfold without communication access. She was forced to attempt to convey her own concerns about her husband's health and well-being—including a concern he may be suicidal—through hand-writing notes. Although she managed to convey some information successfully, she was not able to participate in her husband's care to the same extent that she would have if Defendants had provided an on-site interpreter.

242. The next day, after Mr. Merhi recovered from the forced sedation, he attempted to explain to the Hospital that he had been upset due to the communication barriers that arise when the Hospital relies on VRI instead of providing an interpreter on site. Through a VRI interpreter, Mr. Merhi came to believe that the the previous night, Rhode Island Hospital personnel had thought he might be psychotic, because they could not understand what he was saying. Hospital records do not appear to indicate that Mr. Merhi had been viewed as psychotic. Mr. Merhi's misunderstanding of how his condition had been viewed and analyzed the previous night demonstrates the inadequacy of communication through VRI.

243. Rather than provide an on-site interpreter, the Hospital continued to force Mr. Merhi to communicate through handwriting notes or by relying on faulty VRI equipment.

244. The Hospital did not even provide VRI each time it was necessary, again forcing Mrs. Merhi to access the Video Relay Service on her cell phone thereby exposing herself to serious consequences, including being banned from using this service in the future.

245. The Hospital kept Mr. Merhi for several additional days, never once providing an on-site sign language interpreter despite documenting his requests.

246. On information and belief, Rhode Island Hospital's repeated failure to provide effective communication with the Merhis is not due to the lack of available interpreters in the area. Rather, it is due to the Hospital's unwillingness to pay interpreters a fair wage for their work. Consequently, many interpreters refuse to work for the Hospital, causing the Hospital to experience difficulty securing interpreters.

247. Mr. Merhi continued to go to the Cancer Center at Rhode Island Hospital for chemotherapy and related appointments. Mrs. Merhi often accompanied him. The Hospital provided interpreting services only occasionally for these visits, limiting the Merhis' ability to participate in Mr. Merhi's cancer treatment.

October 5, 2016 Letter to Rhode Island Hospital

248. On or about October 5, 2016, Mrs. Merhi sent a letter to Rhode Island Hospital explaining her concerns about the lack of interpreting services.

249. Mrs. Merhi obtained assistance drafting the letter to ensure that the content of the letter properly expressed what she needed to convey.

250. The letter explained the limitations inherent in the use of video-based interpreting services, including both limitations of technology and limitations inherent in using a remotely-based service.

251. The letter requested an on-site interpreter for all subsequent hospital visits by Mrs. Merhi, Mr. Merhi, or any of their children.

252. The letter requested a copy of the hospital's interpreter policies or an explanation for not providing the policy and included a copy of the Rhode Island regulations required hospitals to provide interpreting services.

253. Rhode Island Hospital did not respond to the letter.

Mr. Merhi's February 6, 2017, Visit to Rhode Island Hospital

254. On February 6, 2017, Mr. Merhi went to Rhode Island Hospital due to a swollen foot. He arrived around 9:30pm. Mrs. Merhi accompanied him on this visit.

255. Upon arrival, Mr. and Mrs. Merhi requested an interpreter. They were told that Rhode Island Hospital could not provide one because it is after hours.

256. Rhode Island Hospital attempted to provide VRI to communicate with Mr. and Mrs. Merhi. However, VRI did not result in effective communication because the connection was poor. The visual image froze and blurred many times, causing Mr. and Mrs. Merhi to miss important information. Although he asked the doctor to repeat the information, eventually the doctor grew tired of repeating himself and declined to do so. Consequently, Mr. and Mrs. Merhi missed out on important information regarding Mr. Merhi's injury, treatment and prognosis.

257. Mr. Merhi was not admitted to the Hospital. Mr. and Mrs. Merhi left around 3:30 am without ever having received effective interpreting services and without having a meaningful opportunity to participate in his care.

258. Unfortunately, Mr. Merhi passed away in May 2017.

259. However, Mrs. Merhi is likely to return to Lifespan's hospitals as they are the closest hospitals to her home, she uses them for her own medical needs, and she uses them for all four of her children's medical needs. Her youngest child is just two years old.

Prior Visits by All Plaintiffs

260. Plaintiffs Arcana and Merhi made multiple visits to Lifespan Hospitals that are now time-barred, in which the Hospital in question failed to provide qualified sign language interpreters to ensure effective communication.

261. These visits ranged in severity. However, they included visits relating to Luke C. experiencing sickle cell crises, visits relating to Mr. Merhi's lymphoma, and a visit that resulted in a psychiatric hospitalization for K.M.

262. On information and belief, Lifespan Hospitals' failure to provide qualified sign language interpreters and ensure effective communication with the Plaintiffs is part of an ongoing policy, practice, and procedure of intentionally violating the rights of deaf and hard of hearing patients and companions.

Rhode Island Association of the Deaf ("RIAD")

263. The RIAD represents the interests of deaf and hard of hearing individuals living in Rhode Island who use sign language as their primary means of communication.

264. The RIAD has devoted substantial resources to addressing the discrimination seen at Lifespan's hospitals.

265. Approximately 5 years before the incidents in the Complaint arose, a RIAD member met with Lifespan leadership. The representative attempted to educate Lifespan regarding the need to provide qualified sign language interpreters for deaf and hard of hearing patients and companions, and the risks inherent in attempting to provide interpreters remotely through VRI as opposed to on site.

266. In 2015, RIAD flew in a representative from the National Association of the Deaf and hosted a community meeting for deaf Rhode Island residents to express their concerns about the lack of interpreting services at Lifespan hospitals, as well as other hospitals in Rhode Island, and to express their concerns about the misuse of VRI at these hospitals.

267. A RIAD representative has co-authored an article with Dr. Eric Chow to raise awareness regarding the need for effective communication in hospitals. RIAD hopes the article will be published in the Journal of American Medicine.

268. RIAD's representatives have sent multiple emails to the Rhode Island Commission for the Deaf and Hard of Hearing to raise awareness about communication barriers at Lifespan's hospitals and to urge corrective action.

269. In 2016, RIAD hosted a members forum to further discuss the communication barriers that local community members faced at local hospitals, including Lifespan's hospitals.

270. In 2017, RIAD President Todd Murano moderated a panel of deaf community members presenting to healthcare professionals, including Lifespan employees, regarding deaf and hard of hearing individuals' need for effective communication in hospital settings. The audience comprised approximately 50 doctors, some of whom work at Lifespan's hospitals.

271. RIAD has been involved in the Emergency Interpreter Service Committee under the Rhode Island Commission for the Deaf and Hard of Hearing. As part of this committee, RIAD ensures that hospitals such as Lifespan's hospitals provide interpreters in emergency situations.

272. RIAD attends meetings by the Rhode Island Registry of Interpreters for the Deaf to gather more information about the barriers that local interpreters face in providing communication access for deaf and hard of hearing individuals at Lifespan's hospitals.

273. These efforts have not succeeded. Deaf and hard of hearing individuals in Rhode Island, including members of RIAD, continue to experience discrimination at Lifespan hospitals due to the absence of necessary auxiliary aids and services.

COUNT I

TITLE III OF THE AMERICANS WITH DISABILITIES ACT OF 1990

274. Plaintiffs incorporate and re-allege all previous paragraphs as if fully set forth herein.

275. Plaintiff RIAD's members are substantially limited in the major life activities of hearing. Accordingly, they are considered individuals with a disability as defined under the Americans with Disabilities Act (ADA), 42 U.S.C. § 12102(2).

276. Plaintiff Kathryn Arcana is substantially limited in the major life activities of hearing and speaking. Accordingly, she is an individual with a disability under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12102(2).

277. Plaintiff Peggy Merhi is substantially limited in the major life activities of hearing and speaking. Accordingly, she is an individual with a disability under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12102(2).

278. Defendants collectively own, operate, and/or lease a hospital. Therefore, all Defendants are places of public accommodation as defined under Title III of the ADA, 42 U.S.C. § 12181(7)(F).

279. Title III of the ADA prohibits discrimination against individuals with a disability "in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases . . . or operates a place of public accommodation." 42 U.S.C. § 12182(a).

280. Discrimination includes the "failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services." 42 U.S.C. § 12182(b)(2)(A)(iii).

281. Defendants have discriminated against the Plaintiffs on the basis of disability by failing to provide the auxiliary aids and services necessary to ensure effective communication between the Plaintiffs and Defendants' personnel, denying them the "full and equal enjoyment of

the goods, services, facilities, privileges, advantages, or accommodations" of the Defendant in violation of Title III of the ADA, 42 U.S.C. §§ 12181-12189.

COUNT II

SECTION 504 OF THE REHABILITATION ACT OF 1973

282. Plaintiffs incorporate and re-allege all previous paragraphs as if fully set forth herein.

283. Plaintiff RIAD's members are substantially limited in the major life activities of hearing. Accordingly, they are considered individuals with a disability as defined under section 504 of the Rehabilitation Act, as amended, 29 U.S.C. § 705(20).

284. Plaintiff Kathryn Arcana is substantially limited in the major life activities of hearing and speaking. Accordingly, she is a qualified individual with a disability as defined under section 504 of the Rehabilitation Act, as amended, 29 U.S.C. § 705(20).

285. Plaintiff Peggy Merhi is substantially limited in the major life activities of hearing and speaking. Accordingly, she is a qualified individual with a disability as defined under section 504 of the Rehabilitation Act, as amended, 29 U.S.C. § 705(20).

286. Defendants each are a "program or activity," receiving federal financial assistance, including Medicaid and Medicare reimbursements. Further, Defendants are each principally engaged in the business of providing health care. They are therefore covered entities under 29 U.S.C. § 794.

287. Section 504 of the Rehabilitation Act provides that individuals with a disability, solely by reason of their disability, shall not be excluded "from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a).

288. Defendants have intentionally discriminated against the Plaintiffs solely on the basis of disability by denying the Plaintiffs auxiliary aids and services necessary to ensure effective communication between the Plaintiff and Defendants' personnel, and a meaningful opportunity to participate in and benefit from Defendants' health care services, in violation of section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

COUNT III

SECTION 1557 OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

289. Plaintiffs incorporate and re-allege all previous paragraphs as if fully set forth herein.

290. Plaintiff RIAD's members are substantially limited in the major life activities of hearing. Accordingly, they are considered individuals with a disability as defined under 29 U.S.C. § 705(9)(B) and 42 U.S.C. § 12102. See 42 U.S.C. § 18116; 45 C.F.R. § 92.4.

291. Plaintiff Kathryn Arcana is substantially limited in the major life activities of hearing and speaking. Accordingly, she is an individual with a disability as defined under 29 U.S.C. § 705(9)(B) and 42 U.S.C. § 12102. See 42 U.S.C. § 18116; 45 C.F.R. § 92.4.

292. Plaintiff Peggy Merhi is substantially limited in the major life activities of hearing and speaking. Accordingly, she is is an individual with a disability as defined under 29 U.S.C. § 705(9)(B) and 42 U.S.C. § 12102. See 42 U.S.C. § 18116; 45 C.F.R. § 92.4.

293. Defendants each are a "healthcare program or activity," receiving federal financial assistance, including Medicaid and Medicare reimbursements. They are therefore covered entities under 42 USC § 18116.

294. Section 1557 of the Patient Protection And Affordable Care Act states that "an individual shall not, on the ground prohibited under . . . section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance." 42 USC § 18116(a).

295. For the reasons set forth in Count II, Defendants have intentionally discriminated against Ms. Arcana and Mr. and Mrs. Merhi solely on the basis of disability in violation of Section 1557 the Patient Protection and Affordable Care Act, 42 USC § 18116.

RELIEF

WHEREFORE, Plaintiffs Rhode Island Association of the Deaf, Kathryn Arcana, Peggy Merhi, and Semi Merhi respectfully request that the Court provide the following relief:

a. Issue a declaratory judgment that Defendants' policies, procedures, and practices have subjected Plaintiffs to discrimination in violation of Title III of the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973;

b. Enjoin Defendants from any policy, procedure, or practice that will deny deaf and hard of hearing individuals such as Plaintiffs equal access to and an equal opportunity to participate in and benefit from Defendants' services or that denies Plaintiff effective communication with Defendant;

c. Order Defendants to promulgate and comply with policies and procedures to ensure that Defendants do not discriminate in the future against Plaintiffs and other individuals who are deaf and hard of hearing;

d. Order Defendants to provide and pay for qualified interpreter services when necessary to ensure effective communication with Plaintiffs and individuals who are deaf or hard of hearing in all services offered by Defendants;

e. Order Defendants to train all its employees about Plaintiffs' rights and the rights of individuals who are deaf or hard of hearing and about Defendants' policy and procedures for providing auxiliary aids and services, including providing qualified sign language interpreters;

f. Order Defendants to notify individuals who are deaf or hard of hearing of their right to effective communication, how to request qualified interpreter or other services, and how to file a grievance;

g. Award compensatory damages;

h. Award reasonable costs and attorneys' fees; and

i. Award any and all other relief that may be necessary, appropriate, and equitable.

JURY DEMAND

The Plaintiffs hereby demands a jury trial on all issues so triable.

DESIGNATION OF LEAD COUNSEL

The Plaintiffs hereby designate Caroline E. Jackson as lead counsel.

Plaintiffs,
By their attorneys,

/s/ Katherine R. Bowden

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